

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
Civil Action No. 1:18-cv-322**

IRENE WARREN KENT, Administratrix of  
the Estate of Michele Quantele Smiley

*Plaintiff,*

v.

VAN DUNCAN, in his official capacity as  
Sheriff of Buncombe County; WESTERN  
SURETY COMPANY, as surety for the  
Sheriff; CHARLES J. WILHELM, in his  
official and individual capacity; EDWARD F.  
PARKER, in his official and individual  
capacity; MEGHAN T. RIDDLE, in her  
official and individual capacity; JOHN DOE  
#1, in his official and individual capacity;  
JOHN DOE #2, in his official and individual  
capacity ; JOHN DOE # 3, in his official and  
individual capacity; TINA COX MILLER,  
LPN; and SOUTHEAST CORRECTIONAL  
MEDICAL GROUP, PLLC, and et al,

*Defendants.*

**ANSWER OF  
DEFENDANT CHARLES J. WILHELM to the  
SECOND AMENDED COMPLAINT**

NOW COMES Defendant Charles J Wilhelm (hereinafter “Wilhelm”), by and through  
his undersigned attorney, and states as follows for his Answer and defenses in this matter:

**FIRST DEFENSE**

Plaintiff’s Complaint fails to state a claim against Defendant Wilhelm upon which relief  
can be granted and should be dismissed pursuant to Rule 12(b)(6) of the North Carolina Federal  
Rules of Civil Procedure.

**SECOND DEFENSE**

Defendant Wilhelm is entitled to qualified immunity for the claims asserted by Plaintiff.

### **THIRD DEFENSE**

Plaintiff's damages may be proximately caused or contributed to by the conduct of someone other than Defendant Wilhelm, and Plaintiff's claims should be barred or reduced to the extent of such conduct.

### **FORTH DEFENSE**

Defendant Wilhelm's actions were not a proximate cause of any injury or damage to Plaintiff.

### **FIFTH DEFENSE**

Plaintiff's claims are barred by the doctrines of estoppel and waiver.

### **SIXTH DEFENSE**

Plaintiff's claims are barred on the grounds that any injuries, death or damages Ms. Smiley suffered were proximately caused by her own actions.

### **SEVENTH DEFENSE**

Plaintiff's claims against Defendant Wilhelm are barred by the doctrines of sovereign immunity, absolute immunity, governmental immunity and/or public official immunity.

### **EIGHTH DEFENSE**

At all times relevant to the Complaint, Defendant Wilhelm acted in good faith and with a reasonable belief that his actions were lawful.

### **NINETH DEFENSE**

Any claim for punitive damages against Defendant Wilhelm in this case is barred and/or limited by the Constitution of the United States and the Constitution of North Carolina and does not meet the statutory standards for 42 U.S.C. § 1983. Further, Defendant Wilhelm raises all

defenses, rights, remedies, immunities and limits set out in N.C. Gen. Stat. § 1D, *et. seq.*, as affirmative defenses in bar or limitation of Plaintiff's right to recover punitive damages herein.

#### **TENTH DEFENSE**

Michele Quantele Smiley was contributory negligent in that she took illegal drugs that caused her to overdose and her own contributory negligence is pled as bar to any recovery by the Plaintiff.

#### **ELEVENTH DEFENSE AND ANSWER**

Subject to and with a full reservation of the defenses set forth herein, Defendant Wilhelm responds to the correspondingly numbered paragraphs of Plaintiff's Complaint as follows:

#### **PARTIES & JURISDICTION**

1. Admitted upon information and belief.
2. It is admitted the Defendant Van Duncan was the elected Sheriff of Buncombe County.  
Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.
3. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
4. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
5. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
6. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

7. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
8. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
9. It is admitted that Defendant Wilhelm was employed by Sheriff Duncan and he was on duty for portion of the day on October 6, 2017. The remaining allegations are denied
10. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
11. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
12. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
13. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
14. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
15. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
16. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.
17. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

18. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
19. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
20. It is admitted that Plaintiff's Exhibit 1 speaks for itself.
21. It is admitted that Plaintiff's Exhibit 2 speaks for itself.
22. It is admitted that Plaintiff's Exhibit 3 speaks for itself.
23. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
24. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
25. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
26. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
27. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
28. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

#### FACTS

29. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

30. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
31. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
32. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
33. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
34. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
35. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
36. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
37. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
38. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
39. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
40. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

41. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
42. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
43. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
44. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
45. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
46. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
47. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
48. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
49. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
50. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
51. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

52. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
53. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
54. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
55. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
56. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
57. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
58. It is admitted that Plaintiff's exhibit 4 speaks for itself.
59. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
60. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
61. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
62. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
63. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.



64. It is admitted that Plaintiff's Exhibit 5 speaks for itself.
65. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
66. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
67. Admitted that Plaintiff's Exhibit 6 speaks for itself.
68. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
69. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
70. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
71. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied
72. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
73. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
74. Admitted that Plaintiff's Exhibit 7 speaks for itself.
75. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
76. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

77. Admitted that Plaintiff's Exhibit 8 speaks for itself.
78. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
79. Admitted that Plaintiff's Exhibit 9 speaks for itself.
80. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
81. Admitted that Plaintiff's Exhibit 10 speaks for itself.
82. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
83. Admitted that Plaintiff's Exhibit 11 speaks for itself.
84. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.
85. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
86. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
87. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
88. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
89. Admitted that Plaintiff's Exhibit 12 speaks for itself.

90. Defendant Wilhelm repleads the responses to the prior paragraphs of the Amended Complaint as if fully set out hereto.
91. Admitted that Plaintiff's Exhibit 13 speaks for itself.
92. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
93. Admitted that Plaintiff's Exhibit 14 speaks for itself.
94. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
95. Admitted that Plaintiff's Exhibit 15 speaks for itself.
96. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
97. Admitted that Plaintiff's Exhibit 16 speaks for itself.
98. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
99. Admitted that Plaintiff's Exhibit 17 speaks for itself.
100. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
101. Admitted that Plaintiff's Exhibit 14 speaks for itself.
102. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

103. It is admitted that Defendant Wilhelm had the ability to view cells from a computer in his office. All other allegations are denied.
104. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
105. Admitted that Plaintiff's Exhibit 18 and 19 speaks for itself.
106. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
107. Admitted that Plaintiff's Exhibit 20 speaks for itself.
108. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
109. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
110. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
111. Admitted that Plaintiff's Exhibit 21 speaks for itself.
112. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

113. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
114. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
115. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
116. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
117. Admitted that Plaintiff's Exhibit 22 speaks for itself.
118. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
119. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
120. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
121. Admitted that Plaintiff's Exhibit 14 speaks for itself.

122. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

123. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

124. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

125. Admitted that Plaintiff's Exhibit 23 speaks for itself.

126. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

127. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

128. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

#### COMPLIANCE WITH RULE 9(J)

129. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

130. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

#### FIRST CAUSE OF ACTION

131. Defendant Wilhelm repleads the responses to the prior paragraphs of the Second Amended Complaint as if fully set out hereto.

132. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

133. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

134. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

135. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

136. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

137. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

138. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

139. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

140. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

141. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

142. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

#### SECOND CAUSE OF ACTION

143. Defendant Wilhelm pleads the responses to the prior paragraphs of the Second Amended Complaint as if fully set out hereto.



144. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
145. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
146. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
147. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
148. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
149. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
150. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

151. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

### THIRD CAUSE OF ACTION

152. Defendant Wilhelm repleads the responses to the prior paragraphs of the Second Amended Complaint as if fully set out hereto.

153. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

154. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

155. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

156. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

157. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

158. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
159. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.
160. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.
161. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.
162. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.
163. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.
164. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

165. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

166. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

167. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

168. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

#### FOURTH CUASE OF ACTION

169. Defendant Wilhelm repleads the responses to the prior paragraphs of the Second Amended Complaint as if fully set out hereto.

170. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

171. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

172. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
173. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
174. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
175. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
176. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
177. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.
178. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

179. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

180. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

181. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

#### FIFTH CAUSE OF ACTION

182. Defendant Wilhelm repleads the responses to the prior paragraphs of the Second Amended Complaint as if fully set out hereto.

183. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

184. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

185. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

186. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph; therefore, they are denied.

#### SIXTH CAUSE OF ACTION

187. Defendant Wilhelm repleads the responses to the prior paragraphs of the Second Amended Complaint as if fully set out hereto.

188. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

#### SEVENTH CAUSE OF ACTION

189. Defendant Wilhelm repleads the responses to the prior paragraphs of the Second Amended Complaint as if fully set out hereto.

190. Denied as to Defendant Wilhelm. Defendant Wilhelm is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph; therefore, they are denied.

#### JURY DEMAND

191. No responsive pleading is required of this paragraph.

WHEREFORE, Defendant Wilhelm prays the Court:

1. That Plaintiff have and recover nothing from this answering Defendant, and this action be dismissed with prejudice;

2. That the cost of this action, including reasonable attorney's fees, be taxed against Plaintiff;
3. For a jury trial on all issues so triable; and
4. For such other and further relief as the court deems just and proper.

This the 15<sup>th</sup> day of June 2019.

/s/ Thomas J. Doughton  
Thomas J. Doughton  
NC State Bar No. 16611  
*Attorneys for Defendant Charles J Wilhelm*  
DOUGHTON BLANCATO PLLC  
500 West Fourth Street, Suite 203A  
Winston-Salem, NC 27101  
Telephone: (336) 725-9416  
Facsimile: (336) 725-5129  
td@DRBattorneys.com



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 15<sup>th</sup> day of June 2019 I electronically filed the foregoing **ANSWER OF DEFENDANT CHARLES J WILHELM TO SECOND AMENDED COMPLAINT** with the Clerk of Court using the CM/ECF system which will send notification of such filing to:

Stephen P. Agan  
stevea@hylerlopez.com

Sean F. Perrin  
Sean.perrin@wbd-us.com

Patrick H. Flanagan  
[ph@cshlaw.com](mailto:ph@cshlaw.com)

George B. Hyler, Jr.  
George@hylerlopez.com

John M. Olesiuk  
jmogoduke@aol.com

B. Todd Lentz  
BTLentz@hotmail.com

This the 15<sup>th</sup> day of June 2019.

/s/ Thomas J. Doughton  
Thomas J. Doughton  
NC State Bar No. 16611  
*Attorney for Defendant Charles J Wilhelm*  
DOUGHTON BLANCATO PLLC  
500 West Fourth Street, Suite 203A  
Winston-Salem, NC 27101  
Telephone: (336) 725-9416  
Facsimile: (336) 725-5129  
td@DRBattorneys.com